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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-213603

DATE: March 27, 1984

MATTER OF: Priest & Fine, Inc.

DIGEST:

Hand-delivered proposal received after time set for receipt of proposals may not be considered under late proposal clause where the late receipt was caused by wrong directions, on how to get to the room where proposals were to be opened, given to protester's representative by General Services Administration building guard.

Priest & Fine, Inc. (P&F), protests the rejection by the Department of the Treasury, Internal Revenue Service (IRS), of its proposal as late under request for proposals (RFP) No. IRS 83-558 for public service announcements.

We deny the protest.

The time set for receipt of proposals was 4 p.m., October 24, 1983. Room 1320, IRS Building, was designated as the place for the submission of hand-carried proposals.

Proposals were received from three firms on or before 4 p.m., October 24, 1983. At 4:02 p.m., on the same afternoon, a hand-carried proposal was submitted by P&F. This proposal was determined by the contracting officer to be late and was not considered. By letter of November 1, 1983, the contracting officer notified P&F that its proposal was late and was being rejected pursuant to section 1-2.303-5 of the Federal Procurement Regulations (FPR) (1964 ed. amend. 178). By letter of the same date, P&F lodged a protest with our Office.

On November 22, 1983, IRS determined that it was in the best interest of the government, notwithstanding the protest, to award the contract. Award was made to Guerin, Crosby, Morris & Associates. The reason given for the determination was that the services were urgently required since the public service announcements had to be completed and ready for presentation by January 1, 1984, in time for the 1984 tax filing season.

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According to P&F, on October 24, 1983, a member of its staff, Ms. Cynthia Kevlin, arrived at the IRS Building at 1111 Constitution Avenue, at 3:40 p.m., and there was a long line of people waiting to sign in at the main guard desk. After signing in at 3:50 p.m., as indicated on the sign-in sheet (visitor register), Ms. Kevlin was directed by a General Services Administration (GSA) building guard to go up one floor to room 1320. Upon arriving at this floor and not locating the office, she was told by an unidentified individual to go downstairs and through another corridor. At this location, a guard would not allow her to pass through a courtyard directly to room 1320. According to Ms. Kevlin, she had to walk around part of the building to finally reach room 1320, which she entered at 4:01 p.m. P&F's proposal was stamped in at 4:02 p.m. Ms. Kevlin states that after delivering P&F's proposal, she went back to the main guard desk and retraced her steps and discovered that with correct instructions and a direct route to room 1320, it would have only taken 90 seconds to walk from the main guard desk to room 1320.

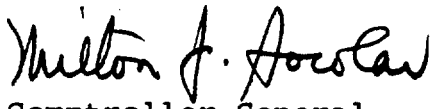
Section 8 of standard form 33-A, page 5 of the solicitation, provides that any proposal received at the office designated in the solicitation after the exact time specified for receipt of proposals will not be considered for award. The solicitation lists several exceptions to this rule, but they are all applicable to mailed or telegraphic proposals. None of the exceptions apply to late hand-carried proposals. Since P&F's proposal did not arrive at the place designated in the solicitation for the receipt of hand-carried proposals by the specified time, it was rejected under the above solicitation provision and the governing regulation, FPR § 1-2.303-5.

It is the responsibility of the offeror to deliver its proposal to the proper place at the proper time. By choosing a method of delivery other than those specified in the late proposal clause, an offeror assumes a high degree of risk that its proposal will be rejected if untimely delivered. See Systec, Inc., B-209483, April 8, 1983, 83-1 CPD 374.

We note that the solicitation, at page 8, advised offerors that the IRS Building is a controlled access facility and that this fact should be taken into consideration in order to avoid late submissions. This warning should have put P&F on notice that there would be a delay getting into the building and that the prudent course of action would be to allow sufficient time not only to sign in, but to cover any other potential delay. The visitors' register indicates

that six visitors signed in at 3:50 p.m. and Ms. Kevlin was the last to sign in at that time. Thus, Ms. Kevlin probably had less than 10 minutes in which to travel from the guard desk to room 1320. This would have been more than sufficient time to get to room 1320 were it not for an intervening event over which IRS had no control. This event was, of course, the misdirection by the GSA guard. It is unfortunate that Ms. Kevlin was misdirected by the GSA guard. However, the RFP was specific as to the time and place for delivery of hand-carried proposals. The conduct of the guard cannot be viewed as changing the RFP requirements. See B-169845, June 23, 1970. Therefore, we cannot conclude that the late delivery resulted either from such extraordinary delay or misdirection by government personnel as to permit an exception to the rule that a late hand-carried proposal may not be considered for award. See James L. Ferry and Sons, Inc., B-181612, November 7, 1974, 74-2 CPD 245.

Accordingly, the protest is denied.

for 
Comptroller General
of the United States